

# The Gazette of India

EXTRAORDINARY

PART I—Section 1

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No. 447] NEW DELHI, WEDNESDAY, OCTOBER 29, 1952

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**ELECTION COMMISSION, INDIA**

**NOTIFICATION**

*New Delhi, the 29th October 1952*

**No. 19/24/52-Elec.III.**—WHEREAS the election of Shri Dharam Singh, son of Shri Kali Ram, village Shillai, Tehsil Rainka, District Sirmur, Himachal Pradesh, as a member of the Legislative Assembly of the State of Himachal Pradesh from the Rainka Constituency of that Assembly has been called in question by an election petition duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri Kheota Ram, son of Shri Kesho, Village Ganog, Tehsil Rainka, District Sirmur, Himachal Pradesh;

AND WHEREAS the Election Tribunal appointed by the Election Commission in pursuance of the provisions of Section 86 of the said Act, for the trial of the said petition, has, in pursuance of the provisions contained in Section 103 of the said Act, sent a copy of its order on the said Election Petition;

NOW, THEREFORE, in pursuance of the provisions of section 106 of the said Act, the Election Commission hereby publishes the said Order of the Tribunal.

**ELECTION TRIBUNAL, HIMACHAL PRADESH, SIMLA**

Election Petition No. 24 of 1952.

Sri Kheota, son of Kesho, of village Ganog, Tehsil Rainka, district Sirmur, Himachal Pradesh.

Petitioner.

Versus

Shri Dharam Singh, son of Shri Kali Ram, of village Shillai, Tehsil Rainka, district Sirmur, Himachal Pradesh, and 4 others.

Respondents.

**ORDER**

During the last general elections, Shri Dharam Singh, respondent No. 1, was declared to be the successful candidate from Rainka constituency, district Sirmur, Himachal Pradesh, for the Legislative Assembly of that State. Shri Kheota an elector of that constituency brought an election petition praying that the election of Shri Dharam Singh be declared void. Four other persons, who had also stood as candidates from that constituency but were unsuccessful, were impleaded as respondents Nos. 2 to 5, as required by law. Shri Dharam Singh, respondent No. 1 was, in due course, expected to be the sole contesting respondent. He, however, did not appear in the case at any stage in spite of due service. Proceedings were ordered *ex-parte* against him on 11th August 1952, he having been personally served

for that date, on 28th July 1952. His application dated 5th August 1952, excusing illness, was received on 12th August 1952. On the latter date the Tribunal directed that a notice be issued to him informing him that *ex-parte* proceedings had been ordered against him and that 23rd August 1952 was fixed for recording *ex-parte* evidence. In fact, some *ex-parte* evidence was recorded on that date. On 25th August 1952 his application dated 21st was received excusing that he cannot appear on the 23rd because the routes were blocked owing to heavy rains.

On 13th September 1952, another application of Shri Dharam Singh dated 12th September 1952, was received. In the same he submitted his resignation of his seat on the Assembly and also notified to the Tribunal that he would not oppose the petition. This application came up before the Tribunal on 19th September 1952, which date was fixed for recording further *ex-parte* evidence of some official witnesses, some of them from out-stations. As, however, Dharam Singh had given a notice, as above, that he would not oppose the petition, further *ex-parte* evidence was not recorded and a notice was directed to issue under section 116 of the Representation of the People Act. The relevant notification was published in the *Gazette of India* dated 4th instant in Part III, Section 3. Under the aforesaid section, "any person who might have been the petitioner may, within 14 days of such publication, apply to be substituted in place of such respondent to oppose the petition.....". No such application has been received by the Tribunal from any person. The defence, therefore, abates.

On the aforesaid 12th September, 1952, Shri Dharam Singh also submitted a resignation over his signature to the Speaker of the Himachal Pradesh Legislative Assembly. The Superintendent of the Assembly today produced before the Tribunal the relevant file and his statement was also recorded. The Tribunal had summoned the Secretary of the Assembly, but he, being busy owing to the Assembly Session, sent the Superintendent with the required papers. The file shows that on 19th September 1952 the Speaker passed the following order on the application of Shri Dharam Singh: "The resignation of Shri Dharam Singh is accepted". The signature of Shri Jaiwant Ram, Speaker, under the said order, has been identified by Shri Diwan Singh Superintendent. A notification referring to the resignation of Shri Dharam Singh and his having ceased to be a member of the Assembly from 12th September 1952 was issued on 20th September 1952 by the Secretary of the Assembly for publication in the *Gazette*. The Tribunal understands that a bye-election has been ordered, in connection with the vacant seat.

In the above circumstances, the petition has become infructuous. No further proceedings can be had in the petition. It is, therefore, directed that the file shall be consigned to the Record Room of the District Judge, Mahasu district, Himachal Pradesh.

As Shri Dharam Singh respondent did not resign his seat, nor did he give notice regarding his not opposing the petition, earlier than 13th September 1952, and some *ex-parte* evidence had actually been recorded and some other witnesses actually appeared even from out-stations, the Tribunal considers it proper that Shri Dharam Singh pay to the petitioner the expenses incurred by the petitioner in connection with the witnesses etc. i.e. Rs. 262/4/- and also Rs. 100 as counsel's fee—total Rs. 362/4/-.

Announced, 23rd October 1952.

Sd/- Tej Singh, Member.

Sd/- J. N. Bhagat, Chairman.

Sd/- Daulat Ram Prem, Member.

P. S. SUBRAMANIAN,  
Officer on Special Duty.